

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
HATTIESBURG DIVISION**

**TRAVELERS CASUALTY & SURETY
COMPANY OF AMERICA, INC.**

PLAINTIFF

V.

CIVIL ACTION NO. 2:13cv101-KS-MTP

**HUB MECHANICAL CONTRACTORS, INC.,
CARREME B. CURRY, GEORGE C. CURRY,
CINDY B. CURRY, MARGIE C. FAILS,
PHILIP A. FAILS, AND ARTHUR C. HENDERSON**

DEFENDANTS

**DEFENDANT FAILS' MOTION TO STAY
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

COMES NOW Defendant, Philip A. Fails ("Mr. Fails"), and files this Motion to Stay Plaintiff Travelers Casualty & Surety Company of America, Inc.'s ("Travelers") Motion for Summary Judgment ("MSJ"). In support hereof, Mr. Fails shows as follows:

PROCEDURAL HISTORY

For purposes of this Motion, the key procedural events related to Mr. Fails are as follows:

May 15, 2013	Travelers filed its Complaint in this action.
July 30, 2013	Mr. Fails was served with the Summons and Complaint.
August 19, 2013	Mr. Fails filed his Answer and Affirmative Defenses to the Complaint.
February 7, 2014	Travelers filed a Motion for Summary Judgment against Mr. Fails and Defendant Margie C. Fails.

At the time Travelers filed its MSJ, the parties had not yet even held a Case Management Conference with the Court, nor had initial disclosures been made. As of the date of filing of this Motion, these activities still remain outstanding, as well as

answers from some of the other named defendants, and no discovery has yet been conducted.

TRAVELERS' MSJ IS PREMATURE

Mr. Fails has asserted defenses to Travelers' claims for which he is entitled to discovery and an opportunity for consideration by this Court. Mr. Fails contends that any deliberation of Travelers' MSJ at this juncture and until Mr. Fails has had a reasonable period within which to conduct discovery is premature. It is in the best interest of all parties and the most efficient use of this Court's resources to stay this Motion pending the case management conference and exchange of initial disclosures. The parties have conferred and agreed that a stay of this Motion to that effect is appropriate.

WHEREFORE, PREMISES CONSIDERED, Mr. Fails prays that this Court will grant this Motion and enter an Order to the effect that no further pleadings with respect to said Motion shall be required until such time as the Case Management Conference is held and a new deadline for response to this Motion is set out in the Case Management Order following the exchange of initial disclosures.

THIS the 21st day of February, 2014.

Respectfully submitted,

PHILIP A. FAILS

By: /s/ Christopher Solop
Christopher Solop, MSB #7687
Brenda Redfern, MSB #7428
His Attorneys

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CERTIFICATE OF SERVICE

I, Christopher Solop, one of the attorneys for Philip A. Fails, do hereby certify that I have this day electronically filed the foregoing document with the Clerk of the Court using the ECF system, which sent notification to all registered users, including the opposing party's attorneys, including:

Ellie Burnham Word
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Attorney for George C. Curry

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Attorney for Margie C. Fails

THIS the 21st day of February, 2014.

/s/ Christopher Solop

Christopher Solop